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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/648,557	08/25/2000	Christian Devaux	COMA-037/00US	5736

21839 7590 06/13/2002

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EXAMINER

PARKIN, JEFFREY S

ART UNIT	PAPER NUMBER
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1648

DATE MAILED: 06/13/2002

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Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.
09/648,557

Applicant(s)
Devaux, C., et al.

Examiner
Jeffrey S. Parkin, Ph.D.

Art Unit
1648

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 01 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136 (a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 25 Aug 2000.
- 2a) ☐ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11; 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-30 is/are pending in the application.
- 4a) Of the above, claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☐ Claim(s) _____ is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☒ Claims 1-30 are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on _____ is: a) ☐ approved b) ☐ disapproved by the Examiner.
If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgement is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
a) ☐ All b) ☐ Some* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

*See the attached detailed Office action for a list of the certified copies not received.

- 14) ☐ Acknowledgement is made of a claim for domestic priority under 35 U.S.C. § 119(e).
a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgement is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892) 4) ☐ Interview Summary (PTO-413) Paper No(s). _____
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948) 5) ☐ Notice of Informal Patent Application (PTO-152)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s). _____ 6) ☐ Other:

Restriction Requirement

35 U.S.C. § 121

1. Restriction to one of the following inventions is required under 35 U.S.C. § 121:

5 a. Group I, claim(s) 1-10 and 18, drawn to a **peptide** or pharmaceutical compositions comprising said peptide, classified in class 530, subclass 327.

10 b. Group II, claim(s) 11-17, drawn to a **composition** comprising a **peptide** and **vector**, classified in class 424, subclass 1.21, class 435, subclass 320.1, and class 530, subclass 320.1.

15 c. Group III, claim(s) 19-22, drawn to a **method of making a pharmaceutical composition** comprising a peptide, classified in class 435, subclass 69.1.

20 d. Group IV, claim(s) 23-30, drawn to a **method of treating HIV infection** through the administration of a pharmaceutical composition comprising a peptide, classified in class 514, subclass 2.

2. The inventions are distinct, each from the other because of the following reasons:

25 3. Inventions II and III/IV are unrelated. Inventions are unrelated if it can be shown that they are not disclosed as capable of use together, or they have different modes of operation, or they have different functions, or they have different effects (refer to M.P.E.P. ¶s 806.04 and 808.01). In the instant case, the methodologies of Groups III and IV neither require nor use the
30 composition of Group II. Accordingly, each invention is clearly drawn toward a different inventive entity.

35 4. Inventions III and IV are unrelated. Inventions are unrelated if it can be shown that they are not disclosed as capable of use together, or they have different modes of operation, or they have different functions, or they have different effects (refer to

M.P.E.P. ¶s 806.04 and 808.01). In the instant case, each of the identified groups is directed toward a different methodology that accomplishes different scientific objectives and employs different scientific reagents and assay steps. Therefore, each invention is
5 clearly drawn toward a different inventive concept.

5. Inventions I and IV and are related as product and process of use. The inventions can be shown to be distinct if either or both of the following can be shown: (1) the process for using the
10 product as claimed can be practiced with another materially different product or (2) the product as claimed can be used in a materially different process of using that product (M.P.E.P. ¶ 806.05(h)). In the instant case, the peptides of Group I can be employed in a materially different process such as the generation
15 of immunological reagents (i.e., polyclonal or monoclonal antisera). Moreover, the methodology of Group IV can use materially different products such as protease inhibitors.

6. Inventions I and III are related as product made and process of making. The inventions can be shown to be distinct if either or
20 both of the following can be shown: (1) the process as claimed can be used to make other and materially different products, or (2) the product as claimed can be made by another and materially different process (M.P.E.P. ¶ 806.05(f)). In the instant case, the
25 pharmaceutical can be produced by a number of methodologies such as solid-state peptide synthesis or through the use of recombinant means.

7. Inventions I and II are related as subcombinations disclosed as
30 usable together in a single combination. The subcombinations are distinct from each other if they are shown to be separately usable. In the instant case, both inventions have separate utilities. For instance, the peptides can be employed in the generation of

immunological reagents (i.e., polyclonal and monoclonal antibodies) while the vector can be utilized to deliver various compounds to a cell of interest. See M.P.E.P. ¶ 806.05(d).

5 8. Because these inventions are distinct for the reasons given above and have acquired a separate status in the art as shown by their different classification, requirement for independent searches, and recognized divergent subject matter, restriction for examination purposes as indicated is proper. Applicants are
10 required under 35 U.S.C. § 121 to elect a single group for prosecution on the merits. Applicants are also reminded that the claims should be amended, if necessary, to reflect the election.

Claim Cancellation

15 9. Applicant is reminded that upon the cancellation of claims to a non-elected invention, the inventorship must be amended in compliance with 37 C.F.R. § 1.48(b) if one or more of the currently named inventors is no longer an inventor of at least one claim remaining in the application. Any amendment of inventorship must
20 be accompanied by a diligently-filed petition under 37 C.F.R. § 1.48(b) and by the fee required under 37 C.F.R. § 1.17(h).

Correspondence

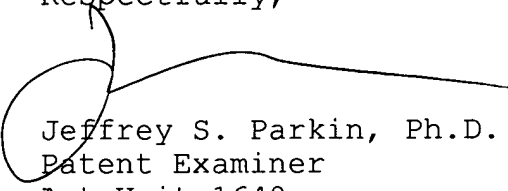
25 10. The Art Unit location of your application in the Patent and Trademark Office has changed. To facilitate the correlation of related papers and documents for this application, all future correspondence should be directed to **art unit 1648**.

30 11. Correspondence related to this application may be submitted to Group 1600 by facsimile transmission. The faxing of such papers must conform with the notice published in the Official Gazette, 1096 OG 30 (November 15, 1989). Official communications should be directed toward one of the following Group 1600 fax numbers: (703) 308-4242 or (703) 305-3014. Informal communications may be
35 submitted directly to the Examiner through the following fax number: (703) 308-4426. Applicants are encouraged to notify the Examiner prior to the submission of such documents to facilitate

their expeditious processing and entry.

5 12. Any inquiry concerning this communication should be directed
to Jeffrey S. Parkin, Ph.D., whose telephone number is (703) 308-
2227. The examiner can normally be reached Monday through Thursday
from 8:30 AM to 6:00 PM. A message may be left on the examiner's
voice mail service. If attempts to reach the examiner are
unsuccessful, the examiner's supervisors, James Housel or Laurie
10 Scheiner, can be reached at (703) 308-4027 or (703) 308-1122,
respectively. Any inquiry of a general nature or relating to the
status of this application should be directed to the Group 1600
receptionist whose telephone number is (703) 308-0196.

Respectfully,



Jeffrey S. Parkin, Ph.D.
Patent Examiner
Art Unit 1648

10 June, 2002